

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)
) CHAPTER 7
JAMES PICKERING ATWOOD,)
) CASE NO. 18-57795-PWB
Debtor.)

JAMES PICKERING ATWOOD,)
)
Movant,)
) CONTESTED MATTER
v.)
)
WILLOWICK CONDOMINIUM)
ASSOCIATION, INC.,)
)
Respondent.)

RESPONSE TO MOTION FOR CONTEMPT OF DISCHARGE INJUNCTION BY
WILLOWICK CONDOMINIUM ASSOCIATION, INC.

Respondent, Willowick Condominium Association, Inc. ("Association"), by and through its counsel, Dorough & Dorough, LLC, hereby responds to Debtor's Motion for Contempt of Discharge Injunction by Willowick Condominium Association, Inc., denying any violation of the discharge injunction and respectfully showing this Court as follows:

I. PROCEDURAL BACKGROUND

1. The Association, a Condominium, obtained a Foreclosure Order and Judgment against the Movant, James Pickering Atwood, in the Superior Court of DeKalb County, Georgia, on April 11, 2018 for unpaid condominium assessments, costs of collection and interest.
2. Debtor filed the instant Chapter 7 bankruptcy on May 7, 2018.
3. Debtor included the Association as a creditor in the Chapter 7 and filed his Motion to Determine Secured Status and void Junior Lien Held by Willowick Condominium

Assoc., Inc. on July 16, 2018.

4. The Court denied Debtor's motion by the Order entered on July 19, 2018 and the Association's lien remains in place.

5. Debtor's bankruptcy was discharged.

6. By and through prior counsel and following the removal of the automatic stay by virtue of Debtor's discharge, the Association initiated foreclosure proceedings for Movant's Unit in the Willowick Condominium through the DeKalb County Sheriff's Office on March 24, 2020.

7. Debtor was notified of the Association's intent to pursue foreclosure of its lien and of Debtor's obligation to pay post-petition condominium assessments that Debtor had failed to pay.

8. The foreclosure proceedings were delayed due to the COVID-19 pandemic, but the foreclosure sale has been set for March 2, 2021.

II. ARGUMENT

9. Debtor provides no valid legal basis for the allegation that the Association has violated the Discharge Injunction arising from Debtor's discharge.

10. The Association has taken no action to collect any discharged amount from Debtor, instead only taking actions necessary to foreclose its lien for condominium assessments or to pursue post-petition balances which were not subject to Movant's discharge.

11. The Association's lien remains in place pursuant to this Court's Order denying Debtor's Motion to void the same as the lien is secured by both by judgment and by virtue of the Georgia Condominium Act ("Act"), specifically, O.C.G.A. § 44-3-70, *et seq.* which provides the Association with an automatically perfected lien for past due assessments and related charges, including but not limited to attorney's fees actually incurred.

12. WHEREFORE, Respondent requests that the Court issue an order denying
Movant's Motion for Contempt of Discharge Injunction by Willowick Condominium
Association, Inc.

Respectfully submitted,

_____/s/_____
Benjamin P. Ost
Attorney for Respondent
Georgia Bar No. 373154

Dorough & Dorough, LLC
Attorneys for Respondent
160 Clairemont Avenue, Suite 650
Decatur, Georgia 30030
(404) 687-9977

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing Response Motion for Contempt of Discharge Injunction by Willowick Condominium Association, Inc. upon the parties listed below by depositing same in the United States Mail, with adequate postage affixed thereon to ensure delivery and addressed as follows:

Debtor:	James Pickering Atwood 1 Willowick Drive Stonecrest, Georgia 30038
Trustee:	S. Gregory Hays Hays Financial Consulting, LLC Suite 555 2964 Peachtree Road Atlanta, GA 30305

This 9th day of February, 2021.

_____/s/_____
Benjamin P. Ost
Attorney for Respondent
Georgia Bar No. 373154

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